

Part C State Performance Plan (SPP) for 2005-2010**Overview of the State Performance Plan Development:**

See page 1 of the State Performance Plan.

Monitoring Priority: Effective General Supervision Part C / General Supervision
Indicator 13: Percent of mediations held that resulted in mediation agreements.

(20 U.S.C. 1416(a)(3)(B) and 1442)

Measurement:

Percent = (2.1(a)(i) + 2.1(b)(i)) divided by (2.1) times 100.

Overview of Issue/Description of System or Process: Add Part B description

Birth to 3 Connections program follows Part B procedures for mediation. These procedures will be revised in accordance with the final Part B and C regulations.

South Dakota has a system in place for voluntary mediation, available at all levels of disputes and may be waived by either party.

South Dakota data reflects the general supervision procedures for mediation. Trained staff gives priority to meeting the deadlines. The limited number of mediations indicates the state uses the system effectively to ensure the provision of appropriate services to children in need of early intervention services.

The State shall ensure that procedures are established and implemented to allow parties to disputes involved in the proposal to initiate or change the identification, evaluation or placement of the child or the provision of appropriate early intervention services to the child, including matters that arise prior to the filing of a due process hearing, to resolve the disputes through a mediation process.

The mediation procedures must ensure that participation is voluntary on the part of the parties. Mediation may not be used to deny or delay the parent's right to a due process hearing or to deny any other rights afforded under Part C of the Act. It must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. Mediators are selected on a random basis.

The State Birth to 3 Connections program shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. An individual who serves as a mediator may not be an employee of the Birth to 3 Connections program providing services to the child. They must not have a personal or professional conflict of interest. The State will bear the cost of the mediation process. A person who otherwise qualifies as a mediator is not an employee of a Birth to 3 Connection program solely because he or she is paid by the State Birth to 3 Connections program to serve as a mediator.

Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties to the dispute in the mediation must be set forth in a written mediation agreement.

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the beginning of the process.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

1. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding arising from that dispute; and
2. Is signed by both the parent and a representative of the Birth to 3 Connections program who has the authority to bind such district.

A written, signed mediation agreement under this section is enforceable in any State court of competent jurisdiction or in a district court of the United States.

If you choose not to use the mediation process, the Birth to 3 Connections program providing services to the child may establish procedures to offer you and to the Birth to 3 Connections program an opportunity to meet, at a time and location convenient to you, with a disinterested party, to encourage the use and explain the benefits of the mediation process to you. This party may be under contract with a parent training and information center, community parent resource center established in the state or with an appropriate alternative dispute resolution entity.

Baseline Data for FFY 2004 (2004-2005): There were no requests for hearings.

Discussion of Baseline Data:

South Dakota has a history of limited due process hearings and mediations in Part B and none in Part C. This is due to a strong commitment to resolution of issues and parent concerns before formal dispute resolution is necessary. The Part C state staff and service coordinators collaborate closely to make sure families understand their parent rights and to resolve issues that arise in a timely manner and families may at any time request formal dispute resolution.

FFY	Measurable and Rigorous Target
2005 (2005-2006)	No target necessary when state has less than 10 mediations
2006 (2006-2007)	No target necessary when state has less than 10 mediations
2007 (2007-2008)	No target necessary when state has less than 10 mediations
2008 (2008-2009)	No target necessary when state has less than 10 mediations
2009 (2009-2010)	No target necessary when state has less than 10 mediations
2010 (2010-2011)	No target necessary when state has less than 10 mediations

Improvement Activities/Timelines/Resources:

Activities	Resources	Timelines
South Dakota tracks mediations to ensure timelines and procedures are followed.	<ul style="list-style-type: none"> • Mediation training for State staff • Legal counsel for the State staff • Office of Hearing Examiners 	<ul style="list-style-type: none"> • July 1, 2005 – June 30, 2011
Revise Part C Parent Right Booklet	<ul style="list-style-type: none"> • MPRRC staff • Consultant • State Staff 	<ul style="list-style-type: none"> • Fall 2005
Revise Parent Rights video	<ul style="list-style-type: none"> • State staff • MPRRC staff • South Dakota Parent Connection 	<ul style="list-style-type: none"> • Fall 2006